

AstraZeneca Docket No. A2090-1P US

Application No. 09/529,654

Page 9**REMARKS AND CONCLUSION**

Claims 1-14, 16, 42 and 43 are pending in this application which was finally rejected on 11/29/2002.

By submission of the CPA and entry of this amendment, Applicants cancel all existing claims and submit new claims 44 to 56, inclusive, for consideration in this CPA.

Fees:

The claims submitted herein comprise one (1) independent claim and twelve (12) claims dependent thereon. Accordingly, no additional claim fees are required for filing this CPA.

The fees for the two-month extension of time requested herein are to be charged to deposit account 26-0166.

Remarks:

The office action dated 11/29/2002 states, "RN 220100-71-0 reads on instant claim 43 when, in the instant claim E is NHR and R is COR2 and R2 is hydrogen." No claim corresponding to now-canceled claim 43 is presented herein.

The office action dated 11/29/2002 states, "RN 220100-56-0 reads on instant claim 43 when, in the instant claim E is NIIR and R is alkyl." No claim corresponding to now-canceled claim 43 is presented herein.

The office action dated 11/29/2002 states, "RN 220100-57-2 reads on the instant claims when, in the instant claims R is hydrogen, and C1-C3 alkyl; and when R1 is - (CH₂)_nAr, Ar is phenyl, and n is 0 to 3." Claim 44 submitted herein corresponds to now-canceled claim 1; in claim 44 the compound RN 220100-57-2 (5'-N-benzylaminospiro[1-azabicyclo[2.2.2]octane-3,2'-(3'H)-furo[2,3-b]pyridine]) is expressly excluded from the scope of the claim by proviso.

Applicants note that in an office action in this matter dated 6/14/2002, at page 3, the Examiner states, "Claims 1-3, 6, 8-24 and 43 are rejected under 35 U.S.C. 102(b) as being

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anticipated by U.S. patent 6,110,914" Upon inspection of the reference and the relevant dates indicated therein, Applicants believe this rejection should have been made under 102(e). Applicants interviewed the Examiner by telephone on April 24, 2003 to inquire whether the recitation of 102(b) was a typographical error, the Examiner agreed that this was so and that the rejection of 6/14/2002 was made under 102(e).


Applicants respectfully request that this CPA be promptly examined on the merits. Applicants believe the claims presented herein are in condition for allowance and in view of the statement below solicit prompt issuance of a Notice Of Allowance and Issue Fee Due.

Statement:

The undersigned hereby states that the subject matter of U.S. Patent 6,110,914 and the invention claimed herein were at the time this invention was made owned by the same person or subject to an obligation of assignment to the same person.

Respectfully submitted,

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